

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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WESLEY GABRIEL and SHAWN SMITH, individually
and on behalf of all others similarly situated,

08 Civ. 2460

Plaintiffs,

**RELATED CASE
STATEMENT**

- against -

BRIAN FISCHER, in his capacity as Commissioner of the New York State Department of Correctional Services (DOCS), and in his individual capacity; ANTHONY J. ANNUCCI, in his capacity as Deputy Commissioner and Counsel for DOCS, and in his individual capacity; LUCIEN J. LECLAIRE, JR., former Acting Commissioner of DOCS, in his individual capacity; GLENN S. GOORD, former Commissioner of DOCS, in his individual capacity; and JOHN/JANE DOES 1-50 (DOCS Supervisory, Training, and Policy Personnel),

Defendants.

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Plaintiffs Wesley Gabriel and Shawn Smith, by and through their attorneys, Emery Celli Brinckerhoff & Abady LLP, submit this Related Case Statement pursuant to Rule 1.6(a) of the Local Rules of this Court. The instant case, as well as *Smith v. Paterson*, No. 08 Civ. 3313, currently pending before this Court, may be related to *Coleman v. Fischer*, No. 07 Civ. 7790, which is currently pending before the Hon. Shira A. Scheindlin. (See Related Case Statement for *Coleman v. Fischer*, No. 07 Civ. 7790, attached hereto as Ex. A.) On April 25, 2008, Mr. Michael Coleman filed an Amended Complaint in *Coleman v. Fischer*, No. 07 Civ. 7790. In the Amended Complaint, Mr. Coleman, like the plaintiffs in *Gabriel v. Fischer*, No. 08 Civ. 2460, and *Smith v. Paterson*, No. 08 Civ. 3313, alleges pursuant to 42 U.S.C. § 1983 that

the Department of Correctional Services (DOCS) violated his due process rights by administratively imposing post-release supervision (PRS) and incarcerating him for alleged violations of PRS, when PRS was never part of a valid judicially imposed sentence. *See Earley v. Murray*, 451 F.3d 71 (2d Cir. 2006) (holding that administrative imposition of PRS violated clearly established Supreme Court precedent) (citing *Hill v. United States ex rel. Wampler*, 298 U.S. 460 (1936) (Cardozo, J.)).

Dated: April 30, 2008
New York, New York

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